

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

MARC VEASEY, JANE HAMILTON,)
SERGIO DELEON, FLOYD J. CARRIER,)
ANNA BURNS, MICHAEL MONTEZ,)
PENNY POPE, OSCAR ORTIZ, KOBY)
OZIAS, JOHN MELLOR-CRUMLEY, PEGGY)
HERMAN, EVELYN BRICKNER, GORDON)
BENJAMIN, KEN GANDY, LEAGUE OF)
UNITED LATIN AMERICAN CITIZENS)
(LULAC), AND DALLAS COUNTY, TEXAS,)

Plaintiffs,

V.

RICK PERRY, Governor of Texas; and JOHN STEEN, Texas Secretary of State,

Defendants.

UNITED STATES OF AMERICA,

Plaintiffs,

TEXAS LEAGUE OF YOUNG VOTERS
EDUCATION FUND, IMANI CLARK, AND
MICHELLE BESSIAKE.

Plaintiff-Intervenors,

TEXAS ASSOCIATION OF HISPANIC
COUNTY JUDGES AND COUNTY
COMMISSIONERS, HIDALGO COUNTY,
AND MARIA LONGORIA BENAVIDES.

Plaintiff-Intervenors,

V.

STATE OF TEXAS, JOHN STEEN, in his official capacity as Texas Secretary of State; and STEVE McCRAW, in his official capacity as Director of the Texas Department of Public Safety,

Defendants.

CIVIL ACTION NO.

2:13-CV-193 (NGR)

[Lead case]

CIVIL ACTION NO.

2:13-CV-263 (NGR)

[Consolidated case]

TEXAS STATE CONFERENCE OF NAACP)	
BRANCHES; and the MEXICAN)	
AMERICAN LEGISLATIVE CAUCUS OF)	
THE TEXAS HOUSE OF)	
REPRESENTATIVES,)	
<i>Plaintiffs,</i>)	
v.)	
)	CIVIL ACTION NO.
JOHN STEEN, in his official capacity as)	2:13-CV-291 (NGR)
Secretary of State of Texas; and STEVE)	[Consolidated case]
McCRAW, in his official capacity as Director)	
of the Texas Department of Public Safety,)	
<i>Defendants.</i>)	
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BELINDA ORTIZ, LENARD TAYLOR,)	
EULALIO MENDEZ JR., LIONEL)	
ESTRADA; ESTELA GARCIA ESPINOSA,)	
LYDIA LARA, MARGARITO MARTINEZ)	
LARA, MAXIMINA MARTINEZ LARA, AND)	
<i>LA UNION DEL PUEBLO ENTERO, INC.</i>)	
<i>Plaintiffs,</i>)	
v.)	
)	
STATE OF TEXAS, JOHN STEEN, in his)	
official capacity as Texas Secretary of State;)	CIVIL ACTION NO.
and STEVE McCRAW, in his official capacity)	2:13-CV-348 (NGR)
as Director of the Texas Department of Public)	[Consolidated case]
Safety,)	
<i>Defendants.</i>)	

**DEFENDANTS' ADVISORY TO THE COURT REGARDING
DATABASE PRODUCTION**

The Defendants have produced databases containing highly personal information to the United States—a party opponent in litigation—for the purposes of making matches between voters and acceptable forms of identification under SB 14. The procedures governing and protecting the disclosure of confidential voter

information contained in state and federal databases were established by order of this Court on February 18, 2014. *See* “Discovery Order and Supplemental Protective Order,” ECF No. 174 (the “Order”). The contents of that Order are the result of countless hours of discussions and negotiations between and among all parties to this lawsuit, not just the Defendants and the United States.¹ *See* “Notice Concerning Agreement Regarding Discover Order,” ECF No. 171 (“ . . . all parties have consented to entry of the attached Proposed Discovery Order and Supplemental Protective Order”). The Order succeeded in establishing a mutually agreeable means of arriving at a putative number of Texas voters who do not possess the forms of identification required for voting under Senate Bill 14, the subject of this dispute. It also encapsulates one of the central pillars of the Defendants’ agreement to (a) turn over the database without receiving the federal databases and (b) allow the federal government, on its own, to conduct the matching process—namely, that the Texas databases, including data from the TEAM database, would not be disclosed to anyone other than the United States and would be used only for the purposes of deriving a “no-match” list. Without this central feature, Texas would not have agreed to this process.

Nevertheless, over three months later, the plaintiffs are questioning Defendants’ refusal to disclose certain database information, which refusal is based upon clear provisions contained in the Order. Specifically, plaintiffs seek information from the Texas Election Administration Management System (“TEAM”)

¹The process began as a bilateral agreement between Defendants and the United States. *See* ECF No. 160. However, the Veasey-LULAC plaintiffs responded with concerns about timing and proposed a new discovery order, which Defendants opposed. *See* ECF Nos. 161, 166.

database, which Defendants produced to *only* the United States *pursuant to the Order*. Paragraph 2 of the Order states that such information “will be provided to other parties in these consolidated cases at the conclusion of the database comparison process,” in a manner consistent with paragraph 5. ECF No. 174 at 3, para. 2. Paragraph 5 states in relevant part that “[a]ny and all data comparisons conducted between a Texas database and a federal database *by the United States* in this litigation . . . shall be disclosed, along with the corresponding algorithm responses of those comparisons, to all parties.” *Id.* at 3–4, para. 5. In short, plaintiffs are attempting to compel database production under an agreement that (a) this Court did not adopt, and (b) expressly contradicts the one that was adopted.

Nevertheless, in the same spirit of collaboration that produced the Order, the Defendants propose the following compromise. Defendants will provide data fields and underlying data from the TEAM database that were extracted by the United States from the TEAM database according to the United States’ proposed extraction protocol; any other data should not be disclosed. Concurrently, the United States must agree to produce the same fields and underlying data populating those fields contained in the relevant federal databases.

Dated: May 28, 2014

Respectfully submitted,

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COUNSEL FOR THE DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2014, a true and correct copy of the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ John B. Scott
JOHN B. SCOTT